



Senate Fiscal Agency
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BILL ANALYSIS

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Senate Bill 542 (Substitute S-4 as passed by the Senate)
Sponsor: Senator Tom Casperson
Committee: Natural Resources

Date Completed: 11-29-17

RATIONALE

The Michigan Department of Agriculture and Rural Development is required by administrative rule to maintain a Pesticide Notification Registry. This is a list of individuals with a chemical sensitivity who must be notified before a pesticide is applied to property on addresses adjacent to the individuals' residence. The chemical sensitivity must be substantiated by a physician, and the individual must submit a certification to the Department for its review and approval. In order to comply with the required notification, pesticide application companies maintain a database of individuals on the registry and properties adjacent to them, notifying sensitive individuals when servicing those properties. The rule also allows a doctor to recommend "additional distance notification" in feet. In such a case, the individual with a chemical sensitivity must be notified if any property is serviced within a larger area than the area that includes properties adjacent to his or her address. Some believe that the rule puts an excessive burden on pesticide application companies. It has been suggested that the area that requires notification should be limited by legislation, rather than established by Department regulation and left to Department discretion.

CONTENT

The bill would amend Part 83 (Pesticide Control) of the Natural Resources and Environmental Protection Act to specify that if the Department of Agriculture and Rural Development established a registry of individuals who wished to be notified before the application of pesticides in the vicinity of the individual's primary residence, the rules could only require notification of pesticide applications on property adjacent to the property on which the individual's primary residence was located.

"Adjacent" would mean either of the following:

- Sharing a common boundary line or property corner with.
- Located directly across an undivided road, stream, or right-of-way from.

The bill would take effect 90 days after the date it was enacted.

Proposed MCL 324.8316b

ARGUMENTS

(Please note: The arguments contained in this analysis originate from sources outside the Senate Fiscal Agency. The Senate Fiscal Agency neither supports nor opposes legislation.)

Supporting Argument

In Michigan, at small pesticide application companies where business is seasonal, an inordinate amount of time and money is devoted to maintaining pesticide registry compliance. This problem is exacerbated when individuals on the registry seek to extend the area that triggers notification.

Reportedly, in Escanaba, one individual on the registry has sought to end pesticide application altogether in the small town, by intentionally expanding the area associated with her registration, and then filing complaints when the pesticide applicators cannot keep up with the demands of the regulation. Since 2012, the number of addresses on the registry in Escanaba evidently has ballooned from only a handful to 140. The undue administrative load required to maintain compliance with the registry has created an unsupportable amount of costs to pay workers. Furthermore, the fine for noncompliance ranges from \$50 for a first offense to \$500 for a fourth offense, an amount small pesticide companies cannot afford. A small clerical error that results in a notification mistake can cost an inordinate amount of money and make business financially unfeasible, yet the service provided by pesticide applicators is important to communities all over the State. By limiting the area of application that requires notification, the bill would alleviate the financial burden on pesticide application companies.

Opposing Argument

The chemical sensitivities of those on the registry are legitimate health issues recognized by medical professionals. An individual must have an authentic chemical sensitivity, substantiated by a doctor, in order to be listed in the registry. Decisions concerning the risk posed by pesticides should be made by physicians. As written, the Department rule does not bar these companies from applying pesticides to any property or from conducting their businesses. The rule only requires that individuals with medically documented conditions be notified when an application occurs so those individuals can avoid the area and protect their health. The bill, however, would limit the notification requirement to adjacent property, which could be an insignificant area in neighborhoods with small parcels. This limitation also would not take into account the drift factor of pesticides. The bill would jeopardize the health of chemically sensitive individuals by undermining the recommendations of medical professionals.

Response: Drift is a factor only in the case of vaporized pesticides, as they are usually applied with large, commercial-use booms. The rule applies only to the application of lawn or ornamental pesticides. These pesticides are liquids, sprayed manually.

Legislative Analyst: Nathan Leaman

FISCAL IMPACT

The bill would have no fiscal impact on State or local government.

Fiscal Analyst: Bruce Baker

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This analysis was prepared by nonpartisan Senate staff for use by the Senate in its deliberations and does not constitute an official statement of legislative intent.